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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

MAY 09 2001

WILLIAM A. MUNDELL

Chairman

JIM IRVIN

Commissioner

MARC SPITZER

Commissioner

DOCKETED BY

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IN THE MATTER OF THE JOINT APPLICATION OF CABLE PLUS COMPANY, L.P., DOING BUSINESS AS TELEPHONE PLUS, AND COX ARIZONA TELECOM, L.L.C., FOR AN ORDER APPROVING THE SALE AND TRANSFER OF ASSETS OF TELEPHONE PLUS AND FOR A WAIVER OF THE AFFILIATE INTEREST RULES TO THE EXTENT APPLICABLE TO THIS TRANSACTION

DOCKET NOS. T-03154A-99-0488
T-03471A-99-0488

IN THE MATTER OF THE APPLICATION OF COX ARIZONA TELCOM, L.L.C. FOR LIMITED WAIVER OF 2-PIC EQUAL ACCESS REQUIREMENTS

DOCKET NO. T-03471A-00-0042

DECISION NO. 63663

ORDER

Open Meeting
May 1 and 2, 2001
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On October 1, 1999, in Decision No. 61970, the Commission approved the sale and transfer of all assets of Cable Plus, L.P., doing business as Telephone Plus, to Cox Arizona Telecom, L.L.C. ("Cox" or "Company"). In this Order, Cox was ordered to file its 18-month conversion schedule for transferring the affected multiple dwelling unit ("MDUs") apartment complexes to the Cox network.

2. On January 19, 2000, Cox Arizona Telecom, L.L.C. ("Cox") filed an application requesting a limited waiver of 2-PIC equal access requirements for certain Cox customers residing in multi-dwelling units previously served by Telephone Plus. 2-PIC equal access allows customers to select both an interLATA toll carrier and an intraLATA toll carrier. In its application, Cox requested that the Commission waive compliance with A.A.C. R14-2-1111 until December 31, 2000, for

1 Phoenix-area former Telephone Plus customers and until December 31, 2001, for Tucson-area former
2 Telephone Plus customers.

3 3. On August 24, 2000, in Decision No. 62862, the Commission granted a limited waiver
4 of the 2-PIC Equal Access Requirements until March 31, 2001, for both Phoenix-area and Tucson-area
5 former Telephone Plus customers due to the former Telephone Plus equipment not having the
6 technical capability to provide the service. March 31, 2001, corresponded with the conversion
7 requirement of eighteen months set forth in Decision No. 61790.

8 4. On March 28, 2001, Cox filed a Motion for Limited Waiver of Compliance Dates
9 relating to the conversion of the certain MDUs in the Tucson-area to the Cox network and the
10 implementation of 2-PIC Equal Access at those complexes.

11 5. In its Motion, Cox asserts that:

- 12 a. Cox has been proceeding with the conversion of numerous affected MDU
13 complexes in the Phoenix-area onto the Cox network.
- 14 b. The Phoenix conversion is almost complete (one complex will convert in
15 May 2001).
- 16 c. The owners of eleven (11) MDU complexes in the Tucson area have
17 discussed terminating their access agreement with Cox and not connecting
18 to the Cox network and several have signed a letter confirming this desire.
- 19 d. In light of these discussions, Cox has determined that it will cease
20 telephone service to these eleven MDU complexes.
- 21 e. Qwest is currently providing telecommunications services to numerous
22 tenants in these complexes and apparently has the facilities in place to serve
23 all of the tenants, and according to Cox, Qwest has agreed to serve all
24 customers at these complexes.
- 25 f. The requesting MDU owners agree to promptly transition all Cox
26 customers to Qwest in a seamless process at no cost to the customers.
- 27 g. Cox will coordinate with the requesting MDU complexes and Qwest to
28 make the transition as smooth as possible, including customer notice and
all other necessary arrangements with affected customers.
- h. The transition of customers will be completed within ninety (90) days of the
filing of its Motion.

1 6. Staff has reviewed Cox's Motion and has determined through discussion with the
2 Company the following:

- 3 a. The eleven (11) affected MDU complexes are outside the city limits of
4 Tucson where Cox has its cable network.
- 5 b. The remaining Tucson MDU complex has been converted to Cox's network
6 and 2-PIC Equal Access is being provided.
- 7 c. There is no transfer of assets involved with the migration of customers to
8 Qwest. The obsolete Telephone Plus equipment will be abandoned and
9 junked by Cox.
- 10 d. There will be no conversion costs passed on to tenants of the affected MDU
11 complexes who currently are Cox customers and affected by this change
12 (approximately 800 within the affected complexes).
- 13 e. Rates for residential service are comparable between Cox and Qwest in the
14 affected MDU complexes (\$.18 difference in base rate; i.e. \$13.00 versus
15 \$13.18).
- 16 f. Tenants of the affected MDU complexes who are converted to the Qwest
17 network will not experience a number change.

18 7. Staff believes that Cox has presented new circumstances which warrant a finding that
19 grant of Cox's Motion is in the public interest. Staff recommends that Cox's Motion be granted
20 subject to the following conditions.

- 21 a. That no conversion or change of service costs, including any requirement
22 for deposits for service from Qwest, be passed on to customers affected by
23 the change in service providers.
- 24 b. That Cox report monthly to Commission Staff its progress in the conversion
25 of MDU complex tenants to the Qwest network.
- 26 c. That Cox's request for a waiver be granted to the extent set forth herein and
27 that upon conversion of each of the eleven MDU complexes to the Qwest
28 network the conditions of Commission Decision Nos. 61790 and 62862 be
 vacated for the affected complex.

- 1 d. That in the event any of the eleven Tucson-area MDU complexes have not
2 been converted to the Qwest network four months from the date of this
3 Order, Cox be required to file with the Commission such facts as may be
4 appropriate to determine if this waiver of compliance dates should be
5 rescinded for the remaining complexes.
- 6 e. That Cox will provide notice to all affected customers of the change in
7 service providers and provide customers with a telephone number to call to
8 have any questions they may have answered.
- 9 f. That Cox also be granted a limited waiver of the March 31, 2001,
10 conversion deadline for the remaining two MDU complexes in the
11 Phoenix-area that have not been placed on the Cox network. The
12 conversion of these two MDU complexes should be completed no later than
13 eight weeks from the date of this Order.

14 CONCLUSIONS OF LAW

15 1. Cox Arizona Telcom, L.L.C. is an Arizona public service corporation within the meaning
16 of Article XV, Section 2, of the Arizona Constitution.

17 2. The Commission has jurisdiction over Cox and over the subject matter of this
18 Application.

19 3. Staff's recommendations, which are set forth herein are reasonable and should be
20 adopted.

21 4. The Motion of Cox should be granted as set forth in Findings of Fact No. 7.

22 ORDER

23 THEREFORE, IT IS ORDERED that the Cox Motion for Limited Waiver of Compliance
24 Dates be and hereby is granted.

25 IT IS FURTHER ORDERED that Cox insure no non-recurring conversion or change of service
26 costs, including any new requirement for deposits, be passed on to customers affected by the change
27 in service providers.

28 IT IS FURTHER ORDERED that Cox report monthly to Commission Staff its progress in the
conversion of MDU complex tenants to the Qwest network.

IT IS FURTHER ORDERED that Cox's request for a waiver be granted to the extent set forth
herein and that upon conversion of each of the eleven MDU complexes to the Qwest network the
conditions of Commission Decision Nos. 61790 and 62862 be vacated for the affected complex.

1 IT IS FURTHER ORDERED that in the event any of the eleven Tucson-area MDU complexes
2 have not been converted to the Qwest network four months from the date of this Order, Cox be
3 required to file with the Commission such facts as may be appropriate to determine if this waiver of
4 compliance dates should be rescinded for the remaining complexes.

5 IT IS FURTHER ORDERED that within 30 days from the date of this Order Cox will provide
6 notice to all affected customers of the change in service providers and provide customers with a
7 telephone number to call to have any questions they may have answered.

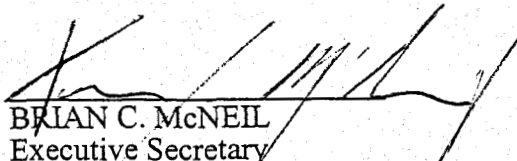
8 IT IS FURTHER ORDERED that Cox also be granted a limited waiver of the March 31, 2001,
9 conversion deadline for the remaining two MDU complexes in the Phoenix-area that have not been
10 placed on the Cox network. The conversion of these two MDU complexes should be completed no
11 later than eight weeks from the date of this Order.

12 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

13 **BY ORDER OF THE ARIZONA CORPORATION COMMISSION**

14 
15 CHAIRMAN  COMMISSIONER  COMMISSIONER

16 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
17 Secretary of the Arizona Corporation Commission, have
18 hereunto, set my hand and caused the official seal of this
19 Commission to be affixed at the Capitol, in the City of
20 Phoenix, this 9th day of May, 2001..

21 
22 BRIAN C. McNEIL
23 Executive Secretary

24 DISSENT: _____

25 DRS:RLB:jbc/MAS
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1 SERVICE LIST FOR CABLE PLUS COMPANY, L.P. AND COX ARIZONA TELCOM, L.L.C.
2 DOCKET NOS. T-03154A-99-0488, T-03471A-99-0488, and T-03471A-00-0042

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